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May 20, 2014

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VIA E-MAIL AND U.S. MAIL

Jennifer Schembri
Deputy Director Employee Relations
Office of the City Manager, City of San Jose
200 E Santa Clara St
San Jose, CA 95113
E-Mail: Jennifer.schembri@sanjoseca.gov

**Re: Cancellation of Tomorrow's Meeting and Clarification with Respect
to Disability Retirement Related City Ordinance**

Dear Jennifer:

The POA finds the City's response, as contained in its letter to me, which was sent electronically at 2:31 p.m., to be unacceptable. As the City must, by now, be painfully aware, the question of disability retirement standards, in general, in light of the Measure B litigation, and the proposed new municipal code section addressing employment options for those police officers no longer qualifying as disabled, is of paramount importance to our members.

To that end, on April 7, 2014 Jim Unland and Joel Phelan sent a joint letter to the San Jose City Council outlining 35 initial threshold questions about the new ordinance. In fact, the POA is still not clear whether the ordinance is final, and when it is supposed to go into effect. Would you enlighten us on this point at your earliest opportunity?

In its letter today, the City declines to agendize questions over the ordinance because it asserts that a separate process is under way to address our questions. We are not aware of any process and ask that the City identify where it contends this issue is being addressed between the parties. It has not been a subject at the general settlement discussions involving Mr. Shikada.

Taking the charitable tack, there seems to be some confusion over which forum the ordinance is being addressed in. To resolve any ambiguity, we ask to schedule a meeting as soon as possible to discuss this issue. Janine Olikier will be in touch with respect to dates. We are cancelling tomorrow's meeting because the City's letter

Jennifer Schembri

Re: Cancellation of Tomorrow's Meeting and Clarification with Respect to Disability Retirement Related City Ordinance

May 20, 2014

Page 2

indicates its unwillingness to discuss this topic during this meeting. We are prepared to continue with the agenda items you suggest for tomorrow at our prescheduled meeting on the 27th; however, please work with Janine to set up another meeting to address the ordinance.

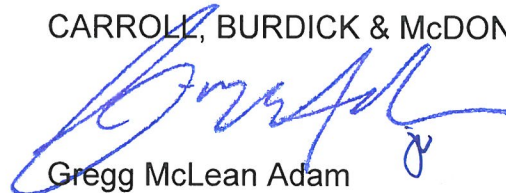
Turning to the question of how to define any meeting regarding the ordinance: As you know, pursuant to the POA's zipper clause, which I recently discussed in correspondence with you, changes within the scope of bargaining during the lifetime of the MOA are prohibited absent the agreement of the POA. Accordingly, the meeting over the ordinance would not be a meet-and-confer, because it is the POA's position that the ordinance cannot be implemented *as to POA represented employees* without the POA's express agreement.

It was the POA's hope that the discussion we had last week portended better labor relations between the parties. And we hope that on the majority of the issues we are currently discussing, we can continue those baby steps. The POA team had understood from last week's meeting that the City had in fact some answers to some questions presented about the Disability Retirement Ordinance in the April 7th letter, and it was simply a matter of writing them up. However, nothing to that end has been forthcoming.

I emphasize, for a third time, that these issues concerning the Disability Retirement Ordinance are of paramount importance to our members. We would like to see the City prioritize them. Going six weeks without a single response to any of our questions is unacceptable on a subject of this gravamen.

Very truly yours,

CARROLL, BURDICK & McDONOUGH LLP



Gregg McLean Adam

Dictated by him, but signed in his absence.

GMA:jo

cc: Ed Shikada, City Manager
Alex Gurza, Deputy City Manager
Robert Perrin, Executive Analyst
Deputy Chief Edgardo Garcia
Jim Unland, President, San Jose POA
John Robb, Vice President, San Jose POA
Franco Vado, Chief Financial Officer, San Jose POA